

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1, 5, 7, 10, 11, and 13-19 are pending. Claims 1, 5, 10, 11, 13, 15, and 18 are amended. Claim 1 is amended to incorporate the features recited in dependent Claims 2, 3, 4, and 6. Additional support for the amendment to Claim 1 can be found at page 15, line 21-page 16, line 19, for example. Support for the amendments to Claims 5, 10, 11, 13, 15, and 18 is self-evident. No new matter is added. Claims 2-4, 6, 8, 9, and 12 are canceled without prejudice or disclaimer.

In the outstanding Office Action, Claims 1-9, 11-15, and 18 were rejected under the judicially created doctrine of obviousness-type double patenting over Claims 1-19 of Sunago et al. (U.S. Patent No. 6,019,752, herein “Sunago”). Claims 1-3 and 7 were rejected under 35 U.S.C. §103(a) as obvious over Haber et al. (U.S. Patent No. 5,352,196, herein “Haber”). Claims 4-5, 8-9, 11, and 13-19 were rejected under 35 U.S.C. §103(a) as obvious over Haber in view of Sunago. Claim 10 was allowed.¹

Applicants note with appreciation the indication that Claim 10 is allowed.

Applicants further note that as the modification to Claim 1 essentially modifies Claim 1 to correspond to Claim 6, no new search or examination issues would arise from entry of the present Amendment. Further, as Claims 2-4, 6, 8, 9 and 12 have been cancelled, issues on appeal would be reduced. Accordingly, entry of the present Amendment is respectfully requested.

Regarding the rejection of Claims 1-9, 11-15, and 18 under the doctrine of obviousness-type double patenting, that rejection is respectfully traversed by the present

¹ See items 11 and 12 on page 7 of the outstanding Office Action. Accordingly, the Office Action Summary text indicating that Claims 1-19 are rejected is incorrect.

response. As Claims 2-4, 6, 8, 9, and 12 are canceled, Applicants respectfully submit that the rejection with respect to these claims is moot.

Amended independent Claim 1 recites:

An infusion container comprising:
a medicine storing chamber; and

a dissolving liquid storing chamber, the dissolving liquid storing chamber being connected with the medicine storing chamber, wherein the medicine storing chamber holds a small container having an open mouth and storing a freeze-dried medicine, and is so constructed as to be partitioned from the dissolving liquid storing chamber when the infusion container is out of use and preserved and configured to communicate with the dissolving liquid storing chamber when in use,

wherein the medicine storing chamber comprises a container body with a bottom thereof connected with the dissolving liquid storing chamber and a capping member configured to seal a mouth portion of the container body, and the small container is held in the container body,

wherein the container body has in an inside thereof a fitting portion configured to fit a part of the small container thereby positioning the small container,

wherein the small container has a longitudinal groove in side walls thereof and/or a trench in a bottom wall thereof, and the fitting portion of the container body is a protruding piece which fits the longitudinal groove and/or the trench, the protruding piece being formed on the bottom of the container body, and

wherein the container body has at the bottom a hole configured to allow communication with the dissolving liquid storing chamber, the protruding piece is movable on the bottom of the container body, a bottom portion of the protruding piece openably seals the communication hole, and the capping member has an engaging portion engaged with a tip portion of the protruding piece and is configured to open the communication hole by a rotation of the capping member via the engaging portion and the protruding piece so that the freeze-dried medicine can be mixed with a dissolving liquid through the communication hole and the open mouth from the dissolving liquid storing chamber to be supplied as a solution for infusion.

The infusion container of amended Claim 1 recites that the infusion container comprises a dissolving liquid storing chamber and a medicine storing chamber which holds **within a small container having an open mouth and storing a freeze-dried medicine.** **That is, the small container having the open mouth** is held within the medicine storing chamber, and the **freeze-dried medicine** is mixed with a dissolving liquid through **the open mouth** from the dissolving liquid storing chamber to be supplied as a solution for infusion.

Sunago, in contrast, does not teach or suggest such a small container having an open mouth as it is held within a medicine storing chamber and stores a freeze-dried medicine.

The outstanding Office Action states that Claim 5 of Sunago patent comprises within a chamber “a chamber within which is storable a drug ... agent...”

In the embodiment shown in Sunago, Fig. 1, no small container having an open mouth is disclosed. Although Fig. 26 describes a drug storing chamber (301) with a chamber (309) storing drug alteration preventive agents (309a) and (309b), the chamber (309) is located outside the drug storing chamber (301). Further, Applicants respectfully submit that the phrase “a drug ... agent...” should be read as “a drug alteration preventive agent having a desiccant and/or a dexiodant.” For example, claim 5 of Sunago, specifically discussed in the outstanding Office Action, recites:

A fluid vessel according claim 4, wherein the chamber comprise a chamber within which is storable a drug alteration preventive agent having a desiccant and/or a dexiodant.²

Applicants respectfully submit that a person of ordinary skill in the art would understand that such a drug alteration preventive agent having a desiccant and/or a dexiodant cannot be mixed with a solvent or dissolving liquid as recited in amended independent Claim 1. Accordingly, Applicants respectfully submit that amended independent Claim 1 overcomes the obviousness-type double patenting rejection for at least the reasons discussed above.

Claims 5, 7, 11, and 13-19 depend, directly or indirectly, from amended independent Claim 1. Accordingly, Claims 5, 7, 11, and 13-19 overcome the obviousness-type double patenting rejection for at least the same reasons as amended independent Claim 1 does.

Regarding the rejection of Claims 1-3 and 7 as obvious over Haber and of Claims 4-5, 8-9, 11, and 13-19 as obvious over Haber in view of Sunago, that rejection is respectfully traversed by the present response. Applicants respectfully submit that amended independent

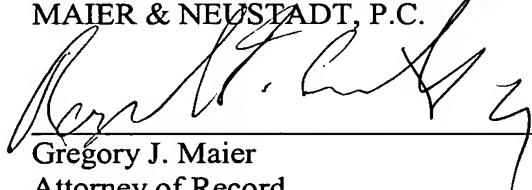
² Sunago, claim 5.

Claim 1 recites all of the features of now-canceled Claim 6, which was not rejected over any cited references. Accordingly, Applicants respectfully submit that amended independent Claim 1 and Claims 5, 7, 11, and 13-19 depending directly or indirectly therefrom, patentably distinguish over any reasonable combination of the cited references for at least the same reasons as now-canceled dependent Claim 6.

Consequently, in light of the above discussion and in view of the present amendment, the present application is believed to be in condition for allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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